

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

February 3, 2005

Before

Hon. William J. Bauer, *Circuit Judge*

Hon. Richard A. Posner, *Circuit Judge*

Hon. Frank H. Easterbrook, *Circuit Judge*

No. 04-2106

HILARY M. WINNICZEK and DANUTA
WINNICZEK,
Plaintiffs-Appellants,

Appeal from the United States District
Court for the Northern District
of Illinois, Eastern Division.

v.

No. 03 C 6962

SHELDON B. NAGELBERG,
Defendant-Appellee.

James F. Holderman, *Judge*.

ORDER

The following language appearing on page 3 of the slip opinion issued on January 7, 2005--the "'actual innocence' rule presumably has an exception for the case in which, although the defendant is guilty, he received an unlawful penalty, though we cannot find any cases on the point"--is hereby amended to read as follows: the "'actual innocence' rule presumably has an exception for the case in which, although the defendant is guilty, he received an unlawful penalty; the existence of the exception was assumed in *Geddie v. St. Paul Fire & Marine Ins. Co.*, 354 So.2d 718, 719 (La. App. 1978), and *Lawson v. Nugent*, 702 F. Supp. 91, 92 (D.N.J. 1988), though we cannot find any case that actually discusses the question."